DAN MORALES
ATTORNEY GENERAL

May 15, 1996

Ms. Sandra C. Camacho
Assistant City Attorney
Criminal and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR96-0720

Dear Ms. Camacho:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39749.

The Dallas Police Department (the "department") received a request for an offense report regarding the sexual assault of a minor. You contend the report is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information is excepted from required public disclosure by a common-law right of privacy under section 552.101 if the information (1) contains highly intimate or embarrasing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

In Open Records Decision No. 339 (1982), this office stated:

> In our opinion, common law privacy permits the withholding of the *name* of every victim of a serious sexual offense. See Open Records Decision No. 205 (1978). The mere fact that a person has been the object of rape does, we believe, reveal "highly intimate or embarrasing facts" about the victim and, in our view, disclosure of this fact would be "highly objectionable to a person of ordinary sensibilities." Although there is certainly a strong public interest in knowing that a crime has been committed, we do not believe that

such interest requires the disclosure of the *names* of victims. Furthermore, certain other information, such as the location of the crime, might furnish a basis for identification of the victim.

Thus, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under the common-law right of privacy and section 552.101 of the Government Code. However, where the victim of the sexual assault or other sex-related offense is a child, section 261.201(a) of the Family Code is applicable. Section 261.201(a) provides:

> The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:
>
> (1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and
>
> (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We conclude that the department's offense reports relating to an incident of child abuse or neglect are records developed in an investigation under chapter 261 of the Family Code, are confidential, and must be withheld in their entirety under section 552.101 of the Government Code.[1]

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

Todd Reese
Assistant Attorney General
Open Records Division

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[1] As we resolve this matter under section 552.101, we need not address the applicability of section 552.108.

RTR/rho

Ref.:   ID# 39749

Enclosures: Submitted documents

cc: Ms. Sylvia Solis
       1226 South Montreal
       Dallas, Texas 75208
       (w/o enclosures)